

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ILLINOIS, EASTERN DIVISION

BRADLEY J. SCHAUFENBUEL; ROBERT N.)
SCHAUFENBUEL; JOHN AND SARAH REED,)
IV; JOHN AND JAN REED, III; AMERICAN)
MASS MEDIA CORPORATION; ROBERTA K.)
CLARK; on behalf of Themselves and All Others)
Similarly Situated)

Plaintiffs,)

v.)

Case No. 09-cv-1221
The Honorable Judge Leinenweber

INVESTFORCLOSURES FINANCIAL, L.L.C)
ROI DEVELOPERS; INVESTFORCLOSURES;)
INVESTFORCLOSURES.COM, LLC;)
INVESTFORCLOSURES VENTURES; LLC)
SANDS OF GOLD ESCROW; SANDS OF GOLD;)
ROI FINANCIAL; REALTY OPPORTUNITIES)
INTERNATIONAL ESCROW 23; ROI ESCROW;)
REALTY OPPORTUNITIES INTERNATIONAL)
S. de R.L. de C.V; REALTY OPPORTUNITIES)
INTERNATIONAL; ROI MEXICO; SANDS OF)
GOLD ESTATES; FRANCIS X. SANCHEZ)
aka FRANK SANCHEZ; JAMES D. BOURASSA)
aka JIM BOURASSA; SCOTT D. WESSEL;)
DEANA M. GUIDI; DANIEL E. FITZGERALD)
aka DAN FITZGERALD; SCOTT R. SLAGLE;)
DARCEY L. MARTIN; TOM RODRIGUEZ; and)
JOHN DOES 1-30.)

Defendants.)

**DEFENDANTS DARCEY M. MARTIN, DEANA M. GUIDI, AND TOM
RODRIGUEZ MOTION TO DISMISS**

NOW COME Defendants, DARCEY L. MARTIN, DEANA M. GUIDI, and TOM
RODRIGUEZ, by and through their attorneys, CAMPION, CURRAN, DUNLOP & LAMB,
P.C., and moves this Court for an order dismissing Plaintiffs' Second Amended Complaint,

pursuant to Federal Rule of Civil Procedure 12(b)(6), and in support thereof states:

1. On April 17, 2009, Plaintiffs' filed their Second Amended Complaint ("Plaintiffs' Complaint") in this action containing the following Counts: Count I - Violation of the Securities Act of 1933; Count II - Violation of the Securities Act of 1934; Count III - Fraud; Count IV - Breach of Fiduciary Duty; Count V - Civil Conspiracy; Count VI - Violation of the Illinois Uniform Fraudulent Transfer Act; Count VII - Unjust Enrichment; Count VIII - Constructive Trust; Count IX - Violation of the Illinois Consumer Fraud Act; Count X - Piercing the Organizational Veil; Count XI - Conversion; Count XII - Violation of the Illinois Securities Law; Count XIII - Breach of Contract; Count XIV - Violation of the Investment Advisers Act of 1940; Count XV - Violation of the Trust Indenture Act of 1939; and Count XVI - Civil Rico.

2. Where a complaint fails to allege facts sufficiently setting forth the essential elements of the cause of action, it is properly dismissed, pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. *See Lucien v. Preiner*, 967 F.2d 1166, 1168 (7th Cir. 1992).

3. As more fully explained in Defendants' Memorandum attached hereto, Plaintiffs Complaint fails to state a claim for relief, and should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6), because Plaintiffs have failed (1) to allege any facts identifying the duties owed and/or actions taken by Defendants DARCEY L. MARTIN, DEANA M. GUIDI, and TOM RODRIGUEZ, as individual Defendants, which, if proven true, would satisfy the elements of Plaintiffs' causes of actions; and (2) to plead its securities and fraud based claims with the particularity required by Illinois law. (*See* Defendants' Memorandum in Support of their Motion to Dismiss, attached hereto as Exhibit "A").

WHEREFORE, Defendants, DARCEY L. MARTIN, DEANA M. GUIDI, and TOM RODRIGUEZ, pray that this Court enter an Order dismissing Plaintiffs' Second Amended Complaint in its entirety, or alternatively Counts I-XVII individually against them, pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim.

CAMPION, CURRAN, DUNLOP & LAMB, P.C.

/s/Russell W. Baker

CAMPION, CURRAN, DUNLOP & LAMB, P.C.
Attorneys for Defendant, Deana M. Guidi
8600 U.S. Highway 14, Suite 201
Crystal Lake, IL 60012
(815) 459-8440